

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CEDRIC WOODS,

Plaintiff,

No. CIV S-03-1976 GEB EFB P

vs.

D.L. RUNNELS, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On June 1, 2006, defendants filed and served a motion for summary judgment. *See* Fed. R. Civ. P. 56. On August 20, 2004, the court advised plaintiff of the requirements for opposing a motion pursuant to Rule 56 of the Federal Rules of Civil Procedure, *see Rand v. Rowland*, 154 F.3d 952, 957 (9th Cir. 1998) (en banc), *cert. denied*, 527 U.S. 1035 (1999); *Klinge v. Eikenberry*, 849 F.2d 409, 411-12 (9th Cir. 1988), and that failure to oppose such a motion might be deemed a waiver of opposition to the motion.

On July 18, 2006, the court gave plaintiff 30 days file an opposition or a statement of no opposition to the motion for summary judgment and warned plaintiff that failure to file an opposition would result in a recommendation that this action be dismissed pursuant to Fed. R. Civ. P. 41(b). The 30-day period has expired and plaintiff has not responded to the court's order.

1 For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be
2 dismissed without prejudice. *See* Fed. R. Civ. P. 41(b).

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 20 days after
5 being served with these findings and recommendations, any party may file written objections
6 with the court and serve a copy on all parties. Such a document should be captioned "Objections
7 to Magistrate Judge's Findings and Recommendations." Failure to file objections within the
8 specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158
9 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10 DATED: October 5, 2006.

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13 EDMUND F. BRENNAN
14 UNITED STATES MAGISTRATE JUDGE
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